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Kathryn Marie Krause
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VIA ECFS

February 1, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: Report and Second Certification Regarding Qwest Wireless, LLC E911 Handset Penetration

In the Matter of Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems and Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers, CC Docket No. 94-102; Qwest Wireless, LLC Request for Limited Waiver; WT Docket No. 05-322

Dear Ms. Dortch:

Please see that this Report and Second Certification is made part of the formal record in the above-captioned proceedings, pursuant to Federal Communications Commission ("Commission") rule 47 C.F.R. § 1.1206. Qwest Wireless, LLC ("Qwest Wireless") is submitting this Second Certification and Report electronically *via* ECFS as well (pursuant to Commission Rule 47 C.F.R. § 1.49(f)).

As Qwest Wireless advised the Commission in August, 2006, it is in full compliance with the Commission's handset penetration rules and has been since early in the third quarter of 2006.¹ In the same communication to the Commission, Qwest advised that its November, 2005 waiver filing² was moot and asked that it be withdrawn. Withdrawal of the Waiver Request filing was all the more appropriate since Qwest Wireless had migrated from a licensee to a Sprint

¹ See *ex parte* letter dated Aug. 3, 2006 from Ms. Kathryn Marie Krause, Qwest to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, filed in CC Docket No. 94-102 and WT Docket No. 05-322.

² Qwest Wireless, LLC Request for Limited Waiver of Automatic-Location-Information-Capable Handset Penetration Requirements, CC Docket No. 94-102, filed Nov. 15, 2005 ("Waiver Request").

reseller Mobile Virtual Network Operator (“MVNO”).³ As a result, Qwest Wireless arguably had no independent handset penetration obligation subsequent to its migration.⁴

In January, 2007 the Commission addressed and denied Qwest’s requested relief (a modest extension of time to achieve the 95% penetration rate by December 31, 2005),⁵ making no reference to its August, 2006 communication asking that the waiver filing be withdrawn. Qwest Wireless is uncertain why formal action on its waiver filing was necessary given its previous withdrawal request and considering that it was no longer a licensee.⁶ But, in any event, Qwest Wireless reiterates here what it said in August 2006: it is in full compliance with the Commission’s handset penetration rules.⁷

³ Qwest Wireless briefly described its migration from a facility-based CMRS provider to a reseller of Sprint services in Qwest Wireless, LLC November 1, 2004 Implementation Status Report at 2 and Qwest Wireless, LLC February 1, 2005 Implementation Status Report at 2.

⁴ See *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petition for Enhanced 911 Phase II Waiver by Zefcom LLC d/b/a Telispire PCS*, Order, CC Docket No. 94-102, DA 07-458, rel. Jan. 31, 2007. Qwest Wireless filed a Waiver Request as a matter of diligence because (a) the rules had initially applied to it directly in its capacity as licensee; and (b) that application resulted in Qwest Wireless’ filing a number of Status Reports (beginning February 1, 2003 running through to February 1, 2005) in which Qwest Wireless outlined its progress regarding its handset penetration objectives. However, the representations made in those Status Reports had ceased to be accurate with respect to achieving the December 31, 2005 benchmarks. Through its November 15, 2005 Waiver Request filing, as a matter of prudence Qwest Wireless sought to provide accurate penetration information with respect to that benchmark.

⁵ *In the Matter of Petition for Limited Waiver and Brief Extension of Leap Wireless International, Inc., Qwest Wireless LLC Request for Limited Waiver of Automatic-Location-Information-Capable Handset Penetration Requirements*, Order, WT Docket No. 05-319 and WT Docket No. 05-322 (Jan. 5, 2007) (“January 2007 Order”).

⁶ The *January 2007 Order* is replete with sentences and obligations framed in the present and near-future tense (e.g., “by which [the carriers] expect to achieve compliance” and “we impose reporting requirements . . . to monitor respective efforts to achieve compliance.”) *id.*, despite the fact that Qwest had achieved full compliance with the Commission’s rules by third quarter of 2006.

⁷ This representation should fulfill the Reporting Requirements provisions in the *January 2007 Order* ¶ 18 (first two bullets). Qwest must file a status report by February 1, 2007, as well as the first of every month, until such time as Qwest becomes compliant with the Commission’s rules. Within five days of achieving the 95% penetration rate, Qwest is required to advise the Commission.

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With respect to the third reporting element reflected in the *January 2007 Order*, the PSAP deployment Report, Qwest Wireless will fulfill this reporting requirement through filings by Sprint Nextel Corporation ("Sprint/Nextel"), given that Qwest Wireless is now a MVNO reseller of Sprint.

Since Qwest has already complied with the first and second requirement in the "Reporting Requirements" section of the *January 2007 Order* (§ 18), and since Sprint/Nextel will be providing the Report referenced in the third bulleted item into the future, this will be Qwest's last Report filing pursuant to the requirements in the *January 2007 Order*.

Should the Commission have any questions or want additional information regarding this filing, please call Melissa Newman in Qwest's Washington, D.C. office at 202-429-3120.

Sincerely,

/s/ Kathryn Marie Krause